

### **REMARKS**

Claims 33-60 are pending. In accordance with the foregoing, claims 33, 34, 36, 38, 40-45, 49, 51-53, 55, 57, 59 and 60 are amended. New claim 61 is added. New claim 61 and amendments to claims 33, 41, 42, 51, 52 and 60 are supported, for example, by paragraph 73 of the originally-filed specification. Claims 37, 39, 46, 48, 56 and 58 have been canceled without prejudice or disclaimer of the subject matter contained therein. In the above-referenced Office Action, claims 33-60 stand rejected. Reconsideration of the application is requested.

Claims 36-39, 45-48, and 55-58 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant has cancelled claims 37, 39, 46, 48, 56 and 58. Claims 36, 45, and 55 have been amended to properly depend on claims 60, 41 and 51, respectively. Illustrative support for the amendments to claims 36, 45, and 55 is found in paragraph 67 of the originally-filed specification. Applicant respectfully asserts that claims 38, 47 and 57 properly depend on respective independent claims 60, 41 and 51 by reciting the limitation requiring "the past ventricular signal further comprises a most recent ventricular signal". Applicant respectfully requests withdrawal of the objection.

Claims 33-60 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claims 41, 51 and 60 have been amended to properly recite "both autonomous intrinsic ventricular activity and the ventricular pacing pulse". With regard to the term "deviates enough" allegedly not being defined by the claim, Applicant respectfully traverses. The claims clearly state "deviates enough from the morphological characteristic...to exceed a threshold". Sufficient deviation is clearly defined as exceeding a threshold. Applicant respectfully requests withdrawal of the rejection.

The Examiner has maintained the rejection of claims 33-60 under 35 U.S.C. 102(e) as being anticipated by Van Dam (U.S. 6,836,682). The Examiner has responded to the Applicant's previous arguments, incorporated herein by reference, by stating that the Applicant intends to differentiate an autonomous intrinsic signal component from the intrinsic signal components disclosed by Van Dam. Applicant respectfully traverses. The Examiner seems to interpret the T-wave of the evoked response to the pacing pulse as intrinsic activity. Van Dam never determines if the T-wave, or any other portion of a signal following a pacing pulse, represents intrinsic activity present in the sensed ventricular signal response to the delivered pacing pulse. Van Dam merely determines when a pacing pulse is delivered and then measures the QT interval as the interval from the pacing pulse to the subsequent T-wave. Nonetheless, the present claims have been amended to recite "modulating a pacing interval that the ventricular pacing pulse is delivered at to aid in detecting whether an autonomous intrinsic signal component is present within the heart". In addition to failing to teach determining the ventricular signal response to the delivered pacing pulse originates from both autonomous intrinsic ventricular activity and the ventricular pacing pulse, Van Dam fails to teach modulating a pacing interval to aid in detecting whether an autonomous intrinsic signal component is present. For at least this reason, Applicant respectfully requests withdrawal of the rejection based on Van Dam.

Claims 33-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Bradley (U.S. 2003/0050671). Contrary to the Examiner's assertion, Bradley fails to teach, among other things, "modulating a pacing interval that the ventricular pacing pulse is delivered at to aid in detecting whether an autonomous intrinsic signal component is present within the heart". The Examiner cites paragraph 64 of Bradley as allegedly teaching modulating a pacing interval to aid in detecting whether an autonomous intrinsic signal component is present. To the contrary, the cited passage teaches adjusting pacing parameters in response to physiologic sensors, for example to provide rate responsive pacing. Thus the parameters are set according to a state of the patient. Modulation of the set

parameters to aid in detecting whether an autonomous intrinsic signal component is present is not taught. For at least this reason, Applicant respectfully requests withdrawal of the rejection.

Applicant asserts that the remarks presented herein are fully responsive to the Office Action and are sufficient to overcome the rejections presented in the Office Action. However, there may be other arguments to be made as to why the pending claims are patentable. Applicant does not concede any such arguments by having not presented them herein. Further, Applicant reserves the right to represent any originally filed, cancelled, and/or previously unclaimed subject matter in a subsequently filed continuing application without prejudice or disclaimer. Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Should any issues remain outstanding, the Examiner is urged to telephone the undersigned to expedite prosecution. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

Date: December 29, 2008

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